



General Assembly

January Session, 2019

Amendment

LCO No. 9593



Offered by:

SEN. LOONEY, 11th Dist.
SEN. DUFF, 25th Dist.
SEN. MCCRORY, 2nd Dist.
SEN. MOORE, 22nd Dist.

SEN. WINFIELD, 10th Dist.
SEN. CASSANO, 4th Dist.
REP. MCCARTHY VAHEY, 133rd Dist.

To: Subst. Senate Bill No. 1070

File No. 732

Cal. No. 353

"AN ACT CONCERNING ABANDONED AND BLIGHTED PROPERTY STEWARDSHIP."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective January 1, 2020*) (a) As used in this
4 section:

5 (1) "Abandoned property" means any building that meets the
6 conditions described in subdivision (2) of subsection (c) of this section;

7 (2) "Actively marketed" means (A) a sign has been placed on a
8 property advertising sale of such property, (B) the owner of such
9 property has (i) hired a real estate broker or salesperson, licensed
10 pursuant to section 20-312 of the general statutes, to include the
11 property in the multiple listing service or to otherwise market the
12 property, (ii) placed advertisements weekly, or more frequently, in

13 print or electronic media, or (iii) distributed printed advertisements,
14 and (C) such sign contains accurate contact information for such owner
15 or real estate broker or salesperson;

16 (3) "Building" means a residential, commercial or industrial
17 structure and the land appurtenant to such structure, including any
18 vacant lot on which such structure was demolished;

19 (4) "Competent entity" means a person or entity, including a
20 governmental unit, with experience in the rehabilitation of buildings
21 and the ability to provide or obtain the necessary financing for such
22 rehabilitation;

23 (5) "Costs of rehabilitation" means each expense for construction,
24 stabilization, restoration, maintenance, operation or demolition of a
25 building, or any action reasonably associated with the rehabilitation of
26 a building, including, but not limited to, environmental remediation
27 and architectural, engineering, legal, financing, permit and receiver's
28 fees;

29 (6) "Development organization" means a nonprofit corporation
30 established, in part, to carry out the purposes of blight remediation,
31 community development, economic development, historic
32 preservation or promotion or enhancement of affordable housing
33 opportunities;

34 (7) "Historic property" means a property listed on the National
35 Register of Historic Places, a contributing property in a national
36 register historic district or a property located in an historic district
37 established pursuant to section 7-147c of the general statutes;

38 (8) "Immediate family" means a parent, spouse, child or sibling;

39 (9) "Lienholder of record" means a lienholder owning a valid
40 interest in the abandoned property, which interest is recorded in the
41 land records of the municipality in which such abandoned property is
42 located;

43 (10) "Municipal code" means any building, housing, blight, property
44 maintenance, fire, health or other public safety ordinance enacted by a
45 municipality;

46 (11) "Owner" means the holder or holders of title to, or of legal or
47 equitable interest in, a building, and shall include, provided any such
48 interest is a matter of public record, any heir, assignee, trustee,
49 beneficiary or lessee of such building;

50 (12) "Party in interest" means any person or entity with a direct and
51 immediate interest in a building, including (A) an owner of such
52 building, (B) a lienholder or other secured creditor of such an owner,
53 (C) a resident of or business owner in the municipality in which such
54 building is located, provided such resident's residence or such owner's
55 business is located less than one thousand feet from such building, (D)
56 a development organization (i) in the municipality in which such
57 building is located, and (ii) that has participated in a project in line
58 with such organization's purpose within a five-mile radius of such
59 building, or (E) the municipality in which such building is located;

60 (13) "Receiver" means any person or entity that takes possession of a
61 building pursuant to the provisions of this section for the purpose of
62 rehabilitating such building or otherwise disposing of such building;
63 and

64 (14) "Substantial rehabilitation" means (A) the costs of any repair,
65 replacement or improvement to a building exceed fifteen per cent of
66 the value of such building after the completion of all such repairs,
67 replacements or improvements, or (B) the replacement of two or more
68 of the following: (i) Roof structures, (ii) ceilings, (iii) wall or floor
69 structures, (iv) foundations, (v) plumbing systems, (vi) heating and air
70 conditioning systems, or (vii) electrical systems.

71 (b) (1) In any municipality with a population of seventy-five
72 thousand or more, a party in interest may file a petition for the
73 appointment of a receiver to take possession and undertake
74 rehabilitation of a building within such municipality, which petition

75 shall be filed in the superior court for the judicial district in which such
76 building is located. The proceeding on the petition shall constitute an
77 action in rem.

78 (2) (A) The petition shall include a sworn statement of the petitioner
79 that, to the best of his or her knowledge, the building meets the
80 conditions described in subdivision (2) of subsection (c) of this section
81 on the date the petition is filed. The petition shall also include, to the
82 extent available to the petitioner after his or her reasonable efforts to
83 obtain the following information, (i) a copy of any citation or order
84 charging the owner of the building with being in violation of
85 municipal code requirements or determining the building to be a
86 public nuisance, blighted or unfit for human occupancy or use, (ii) a
87 recommendation for appointment as receiver for the building, (iii) a
88 preliminary plan detailing (I) initial cost estimates of rehabilitation of
89 the building for purposes of compliance with the applicable municipal
90 code and plan for the area adopted by the municipality in which the
91 building is located, and (II) anticipated funding sources, and (iv) a
92 schedule of each mortgage, lien or other encumbrance on the building.

93 (B) The petition may include any other property adjacent to the
94 building, provided (i) such other property is owned by the same owner
95 as the building, and (ii) the building and each such property are used
96 for a single or interrelated purpose.

97 (3) A true copy of the petition shall be served on the owner of the
98 building and each lienholder of record, including any municipality,
99 unless such municipality is the petitioner, in the manner provided by
100 section 52-57 of the general statutes. In addition, the petitioner shall
101 record a notice of lis pendens with the clerk of such municipality, in
102 the manner provided by section 52-325 of the general statutes.

103 (c) (1) The court shall hold a hearing on the petition and issue a
104 decision after completion of the hearing.

105 (2) The court may appoint a receiver for the building if the court
106 finds that, on the date the petition was filed, each of the following

107 conditions applied:

108 (A) The building has not been legally occupied for at least the
109 twelve months immediately preceding the date of such filing;

110 (B) The owner fails to present compelling evidence, as determined
111 by the court, that the owner has (i) actively marketed the building
112 during the sixty days immediately preceding the date of such filing,
113 and (ii) made a good faith effort to sell the building at a price reflective
114 of circumstances and market conditions;

115 (C) The building is not subject to a pending foreclosure action by an
116 individual or nongovernmental entity;

117 (D) The owner fails to present compelling evidence, as determined
118 by the court, that the owner acquired the building during the twelve
119 months immediately preceding the date of such filing, except that the
120 provisions of this subparagraph shall not apply when ownership of
121 such building is in dispute in any other legal proceeding. For the
122 purposes of this subparagraph, "compelling evidence" does not include
123 evidence that (i) the prior owner is a member of the immediate family
124 of such owner, unless the change in ownership resulted from the death
125 of the prior owner, and (ii) such owner or the prior owner is a
126 corporation, partnership or other entity of which an interest in excess
127 of five per cent is held by a principal, or a member of the immediate
128 family of such principal, of such owner or the prior owner; and

129 (E) The court finds at least three of the following:

130 (i) The building is a public nuisance, blighted or unfit for human
131 occupancy or use pursuant to the applicable municipal code;

132 (ii) The building requires substantial rehabilitation, and no effort to
133 rehabilitate the building has been made during the twelve months
134 immediately preceding the date of such filing;

135 (iii) The condition and any vacancy of the building materially
136 increase the risk of fire to the building and any adjacent property;

137 (iv) The building is susceptible to unauthorized entry and resulting
138 potential health and safety hazards, and (I) the owner has failed to take
139 reasonable and necessary measures to secure the building, or (II) the
140 municipality has secured the building as a result of the failure by the
141 owner;

142 (v) The building is an attractive nuisance to children as a result of
143 the presence of abandoned wells, shafts, basements, excavations and
144 other unsafe structures;

145 (vi) The building is an attractive nuisance for illicit purposes,
146 including, but not limited to, prostitution, drug use and vagrancy;

147 (vii) The presence of vermin or the accumulation of debris, uncut
148 vegetation or physical deterioration of the building creates potential
149 health and safety hazards, and the owner has failed to take reasonable
150 and necessary measures to remove such hazards; or

151 (viii) The appearance or other condition of the building negatively
152 impacts the economic well-being of residents or businesses in close
153 proximity to the building, which impact may include decrease in
154 property values or loss of business, and the owner has failed to take
155 reasonable and necessary measures to remedy the appearance or other
156 condition.

157 (3) (A) Except as provided in subdivision (4) of this subsection, if the
158 court determines that the building is an abandoned property and
159 appoints a receiver pursuant to subdivision (2) of this subsection, the
160 court shall certify the schedule of each mortgage, lien or other
161 encumbrance on such abandoned property and may grant other relief
162 as the court deems just and appropriate. Such certification shall be
163 binding with respect to each mortgage, lien or other encumbrance,
164 including any municipal lien, arising or attaching to the abandoned
165 property prior to the date of such petition.

166 (B) The court shall give the most senior nongovernmental lienholder
167 of record on the abandoned property first consideration for

168 appointment as receiver.

169 (C) If such lienholder is found not competent or declines the
170 appointment, the court may appoint a development organization or
171 other competent entity as receiver, if such organization or entity agrees
172 to serve as receiver. In appointing a receiver pursuant to this
173 subparagraph, the court shall (i) consider any recommendation
174 contained in the petition or otherwise presented by the petitioner or
175 other party in interest, and (ii) give preference to a development
176 organization or governmental unit over an individual.

177 (4) If the court determines that the building is an abandoned
178 property and the owner represents that the conditions described in
179 subdivision (2) of this subsection will be remedied in a reasonable
180 period, the court may permit the owner to remedy the conditions by
181 issuing an order that if the conditions are not remedied by the date set
182 forth in the order, or if other specified remedial efforts have not
183 occurred by the date or dates set forth in the order, the relief requested
184 in the petition shall be granted.

185 (5) Upon a finding that the building is an abandoned property in
186 accordance with subdivision (3) or (4) of this subsection, or that the
187 owner is electing to sell the building, the owner shall reimburse the
188 petitioner for all costs incurred in the preparation and filing of the
189 petition as determined by the court.

190 (6) Upon appointment of the receiver by the court, the receiver (A)
191 shall promptly take possession of the abandoned property and exercise
192 the powers described in subsection (d) of this section, and (B) may file
193 a lien against the abandoned property in an amount based on the costs
194 incurred during the receivership, including, but not limited to, costs of
195 rehabilitation, attorneys' fees and court costs, which amount may be
196 adjusted as necessary.

197 (7) The court may remove the receiver at any time upon request of
198 such receiver or showing by the petitioner or any party to such action
199 that such receiver is not carrying out the duties described in subsection

200 (d) of this section.

201 (d) (1) A receiver appointed pursuant to this section shall have all
202 powers necessary and appropriate, as approved by the court, for the
203 efficient operation, management and improvement of the abandoned
204 property in order to bring the same into compliance with municipal
205 code requirements and fulfill all duties described in this subsection.
206 Subject to approval of the court, the powers and duties shall include,
207 but not be limited to:

208 (A) Taking possession and control of the abandoned property and
209 any personal property of the owner used with respect to the
210 abandoned property;

211 (B) Collecting outstanding accounts receivable;

212 (C) Pursuing all claims or causes of action of the owner with respect
213 to the property described in subparagraph (A) of this subdivision;

214 (D) Contracting for the repair and maintenance of the abandoned
215 property, provided the receiver shall make a reasonable effort to solicit
216 three bids for any contract valued at more than twenty-five thousand
217 dollars unless the contractor or developer provides or obtains
218 financing for the receivership, and each of which contract shall be
219 appropriately documented and included in the reports and accounting
220 required to be submitted or filed by the receiver pursuant to this
221 section;

222 (E) Borrowing money and incurring credit in accordance with
223 subsection (f) of this section;

224 (F) Contracting and paying for the maintenance and restoration of
225 utilities to the abandoned property;

226 (G) Purchasing materials, goods and supplies to repair and operate
227 the abandoned property;

228 (H) Entering into a rental contract or lease for a period of time not to

229 exceed twelve months, provided the court shall approve any such
230 contract or lease;

231 (I) Affirming, renewing or entering into contracts providing for
232 insurance coverage on the abandoned property;

233 (J) Engaging and paying legal, accounting, appraisal and other
234 professionals to assist such receiver in such receivership;

235 (K) If such building was designated an historic property prior to
236 determination by the court as an abandoned property, consulting with
237 the municipality's historical commission or board of historical and
238 architectural review, or a local historic preservation organization, for
239 any recommendation on preserving the historic character of such
240 abandoned property;

241 (L) Applying for and receiving public grants and loans;

242 (M) Selling the building in accordance with subsection (g) of this
243 section; and

244 (N) Exercising any right a property owner would have to improve,
245 maintain and otherwise manage such property, including to the extent
246 necessary to carry out the purposes of this section.

247 (2) While in possession and control of the abandoned property, such
248 receiver shall:

249 (A) Maintain, safeguard and insure such property;

250 (B) Apply all revenue generated from such property consistent with
251 the provisions of this section;

252 (C) Develop a receiver's plan for abatement of the conditions
253 described in subdivision (2) of subsection (c) of this section or, if no
254 such plan can feasibly be developed, a receiver's plan for alternatives
255 such as the closing, sealing or demolition of all or part of the
256 abandoned property, provided (i) if the building was designated an

257 historic property prior to determination by the court as an abandoned
258 property, the receiver's plan for abatement shall provide for the
259 rehabilitation of architectural features that define the historic character
260 of such property, and (ii) if demolition of an abandoned property
261 located in an historic district is necessary, the receiver's plan for
262 alternatives shall provide for the design of any replacement
263 construction on the site of the demolition to comply with law;

264 (D) Implement the receiver's plan developed pursuant to
265 subparagraph (C) of this subdivision, provided the court shall approve
266 such plan; and

267 (E) Annually, or more frequently if the court deems appropriate,
268 submit a status report to the court and each party to the action, which
269 report shall include (i) a copy of any contract entered into by the
270 receiver regarding the rehabilitation of the abandoned property, (ii) an
271 account of the disposition of all revenue generated from such property,
272 (iii) an account of all expenses, repairs and improvements, (iv) the
273 status of developing and implementing the receiver's plan described in
274 subparagraph (C) of this subdivision, and (v) a description of any
275 proposed action to be taken in the six months following the date of
276 submission of the status report to rehabilitate such property.

277 (3) (A) At the time such court appoints a receiver pursuant to
278 subdivision (2) of subsection (c) of this section, the receiver may
279 present for the court's approval a receiver's plan described in
280 subparagraph (C) of subdivision (2) of this subsection. If no such plan
281 is presented, the hearing date on such plan shall be set not later than
282 one hundred twenty days after the appointment and the receiver shall
283 submit such plan to the court and each party to the action not later
284 than thirty days prior to the hearing on such plan.

285 (B) Such plan shall (i) include a cost estimate, a financing plan and
286 either (I) a description of the rehabilitation to be done for the
287 abandoned property, or (II) if rehabilitation is not feasible, a proposal
288 for the closing, sealing or demolition of such property, and (ii) conform

289 with the applicable municipal code, plan for the area adopted by the
290 municipality in which such building is located and historic
291 preservation requirements.

292 (C) At the time of the hearing on the receiver's plan, each party to
293 the action may comment on such plan and the court shall consider all
294 comments when assessing the feasibility of such plan and proposed
295 financing. In making its determination for approving such plan, the
296 costs of such receivership or sale of the abandoned property, the court
297 shall give reasonable regard to the receiver's assessment of the scope
298 and necessity of work to be done for rehabilitation or demolition, as
299 applicable, of the property.

300 (D) The court shall issue a decision approving such receiver's plan
301 or requiring that such plan be amended, in which case another hearing
302 date shall be set.

303 (4) Upon implementation of such receiver's plan approved by the
304 court, the receiver shall file with the court a full accounting of all
305 income and expenditures during the time from approval of the plan to
306 such implementation.

307 (e) (1) The receiver appointed pursuant to subdivision (2) of
308 subsection (c) of this section shall be deemed to have powers and
309 authority equivalent to ownership and legal control of the abandoned
310 property for the purposes of filing plans with any public agency or
311 board, seeking or obtaining construction permits or other approvals
312 and submitting applications for financing or other assistance to public
313 or private entities.

314 (2) Notwithstanding the provisions of subdivision (1) of this
315 subsection, nothing in this section shall be construed to relieve the
316 owner of a building that has been determined to be an abandoned
317 property pursuant to subdivision (2) of subsection (c) of this section of
318 any civil or criminal liability or of any obligation to pay any tax,
319 municipal lien or charge, mortgage, private lien or other fee or charge
320 incurred before or after the appointment of the receiver, and no such

321 liability shall transfer to the receiver.

322 (3) Notwithstanding any provision of the general statutes, the
323 receiver shall not be liable for any environmental damage to a building
324 that has been determined to be an abandoned property pursuant to
325 subdivision (2) of subsection (c) of this section, which environmental
326 damage existed prior to such determination and the appointment of
327 such receiver. The owner of the building shall be held liable for the
328 environmental damage.

329 (f) (1) The receiver may borrow money or incur indebtedness in
330 order to cover the costs of rehabilitation or otherwise fulfill any duty
331 described in subsection (d) of this section.

332 (2) For the purpose of facilitating the borrowing of moneys for the
333 costs of rehabilitation, the court may grant priority status to a lien
334 given to secure payment on a debt incurred for the purposes
335 authorized under this section, provided (A) the receiver sought to
336 obtain the necessary financing from the most senior, nongovernmental
337 lienholder and such lienholder declined to provide financing on
338 reasonable terms for any reasonable improvement or other costs of
339 rehabilitation, and (B) lien priority is necessary to induce another
340 lender to provide financing on reasonable terms.

341 (3) If the most senior, nongovernmental lienholder agrees to provide
342 financing for the costs of rehabilitation, any moneys lent to cover such
343 costs shall be deemed added to such lienholder's preexisting first lien.

344 (4) The court may approve financing for the costs of rehabilitation,
345 the terms of which may include deferred repayment and use
346 restrictions. Such terms may remain with the rehabilitated property
347 after the termination of the receivership and be assumed by (A) the
348 owner of the building that was determined to be an abandoned
349 property pursuant to subdivision (2) of subsection (c) of this section, if
350 such owner regains possession of the rehabilitated property, or (B) a
351 purchaser of the rehabilitated property pursuant to subsection (g) of
352 this section.

353 (g) (1) If an abandoned property is sold by the owner or foreclosed
354 upon by any lienholder, or if any interest in such property is
355 transferred, the sale, foreclosure or transfer shall be subject to the
356 receivership.

357 (2) Upon application of the receiver, the court may order the sale of
358 the abandoned property if the court finds that (A) notice and an
359 opportunity to provide comment to the court was given to each record
360 owner of such property and each lienholder of record, (B) the receiver
361 has been in control of such property for more than three months and
362 the owner has not successfully petitioned to terminate the receivership
363 pursuant to subsection (h) of this section, and (C) the terms and
364 conditions of the sale are acceptable to the court and the purchaser of
365 such property is reasonably likely to maintain such property.

366 (3) The court may authorize the receiver to sell the abandoned
367 property free and clear of any lien, claim and encumbrance, provided
368 the proceeds of the sale are distributed at settlement pursuant to
369 subdivision (4) of this subsection and such distribution is approved by
370 the court. If the proceeds are insufficient to pay each lien, claim and
371 encumbrance, the proceeds shall be distributed according to the
372 priorities set forth in said subdivision and each unpaid lien, claim and
373 encumbrance that has not been assumed pursuant to subdivision (4) of
374 subsection (f) of this section shall be extinguished.

375 (4) The proceeds of any such sale approved by the court shall be
376 distributed as follows, in order of priority:

377 (A) Court costs;

378 (B) Except as provided in subparagraph (G) of this subdivision, liens
379 of the state, liens for unpaid property taxes and properly recorded
380 municipal liens, except as to any such lien that has been sold or
381 transferred;

382 (C) Costs and expenses of sale;

383 (D) Principal and interest on any borrowing or incurrence of
384 indebtedness that was granted priority over existing liens and security
385 interests pursuant to subdivision (2) of subsection (f) of this section;

386 (E) Costs incurred by such petitioner in preparing and filing the
387 petition in accordance with the requirements of subsection (b) of this
388 section;

389 (F) Costs of rehabilitation and any fee or expense incurred by the
390 receiver in connection with the sale or the safeguarding of the
391 abandoned property for which the lien authorized under
392 subparagraph (B) of subdivision (6) of subsection (c) of this section was
393 filed;

394 (G) Liens of the state, liens for unpaid property taxes and properly
395 recorded municipal liens that have been sold or transferred;

396 (H) Valid liens and security interests in accordance with the priority
397 of the liens and interests;

398 (I) Unpaid obligations of the receiver; and

399 (J) The owner of the building that was determined to be an
400 abandoned property pursuant to subdivision (2) of subsection (c) of
401 this section.

402 (5) If at the time of the distribution of the proceeds of the sale the
403 owner cannot be located, the proceeds of the sale that belong to the
404 owner shall be (A) presumed unclaimed and forfeited, (B) subject to
405 the custody and control of the municipality in which the sold property
406 is located, and (C) used for all associated costs to the municipality for
407 the security and remediation of blight and enforcement of any
408 regulation enacted pursuant to subparagraph (H)(xv) of subdivision
409 (7) of subsection (c) of section 7-148 of the general statutes.

410 (6) At the conclusion of any such sale and distribution of proceeds,
411 the receiver shall draft a deed stating that recognizable and marketable
412 title to such property is vested in the purchaser of such property and

413 that any prior ownership interest in such abandoned property has
414 been extinguished. Upon approval of such deed by the court and filing
415 in the land records of the municipality in which such property is
416 located, transfer of ownership of such property shall be deemed fully
417 effectuated.

418 (h) Upon request of the receiver or any party in interest, the court
419 may order the termination of a receivership of an abandoned property
420 if the court finds:

421 (1) The purposes of the receivership have been fulfilled, such as the
422 remediation or abatement of the conditions described in subdivision
423 (2) of subsection (c) of this section and the payment of or provision for
424 each obligation, expense and improvement of the receivership,
425 including any fee or expense incurred by the receiver;

426 (2) The owner, a mortgagee or a lienholder has requested the
427 receivership be terminated and has provided adequate assurance to
428 the court that the purposes of the receivership will be fulfilled, such as
429 the remediation or abatement of the conditions described in
430 subdivision (2) of subsection (c) of this section and the payment of or
431 provision for each obligation, expense and improvement of such
432 receivership, including any fee or expense incurred by such receiver;

433 (3) The abandoned property has been sold by the receiver and the
434 proceeds of the sale have been distributed in accordance with
435 subdivision (4) of subsection (g) of this section; or

436 (4) The receiver has been unable, after diligent effort, to (A) develop
437 a receiver's plan pursuant to subparagraph (C) of subdivision (2) of
438 subsection (c) of this section for approval by the court, (B) implement
439 any court-approved plan, or (C) fulfill the purposes of the receivership
440 for any reason.

441 (i) The provisions of this section shall not apply (1) to any
442 commercial or residential building, structure or land owned by or held
443 in trust for the United States government and regulated under the

444 United States Housing Act of 1937, as amended from time to time, and
445 regulations promulgated under such act, and (2) if the owner of a
446 building that would be determined by a court to be an abandoned
447 property pursuant to this section has vacated such building to perform
448 military service in time of war or armed conflict or to assist relief
449 efforts during a declared federal or state emergency as a member of the
450 United States armed forces or any reserve component of such armed
451 forces."

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2020	New section